IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2700 OF 2006

Mrs.Shobha Julia Desa ..Petitioner

Vs.

Nikhil Surendra Tiwari
& Ors. ..Respondents

...

Mr.C.R.Sonawane Advocate for Petitioner
Mr.Ram U.Singh for Respondent Nos.1 and 2
Mrs.M.M.Deshmukh A.P.P. for the State ..

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 23, 2007

P.C.

1. Heard the learned advocate for the petitioner, the learned advocate for the respondent nos.1 and 2 and the learned A.P.P. for the State.

2. The petitioner is seeking quashing of proceedings relating to Criminal Case No. 150/SS/2006, 155/SS/2006 and 162/SS/2006 which are pending before the Metropolitan Magistrate Court, Railway Mobile Court, Andheri (E) Mumbai. In C.C.Nos.150/SS/2006 and 155/SS/2006, process has been issued against the petitioner under Section

504 and in C.C. No.162/SS/2006, process has been issued under Sections 504 and 506 of IPC. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioner is set aside, the proceedings in respect of the petitioner, would come to an end.

3. However, for the reasons recorded in the order passed by this Court in the case of **V.K.Jain Vs. P.V.Padode; 2005(3) Mh.L.J.778,** I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within four weeks from

today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks. The learned counsel for the respondent nos.1 and 2 makes a statement that no objection will be raised in respect of delay in preferring the revision.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]